

16 CFR Part 610

FEDERAL TRADE COMMISSION

[RIN 3084-AA94]

FREE ANNUAL FILE DISCLOSURES

AMENDMENTS TO RULE TO PREVENT DECEPTIVE MARKETING OF CREDIT REPORTS AND TO ENSURE ACCESS TO FREE ANNUAL FILE DISCLOSURES

AGENCY: Federal Trade Commission.

ACTION: Extension of period within which to submit comments in response to the Notice of Proposed Rulemaking.

SUMMARY: In a Federal Register notice published on October 15, 2009, the Federal Trade Commission (“Commission” or “FTC”) requested comment on its Notice of Proposed Rulemaking (“NPRM”) in connection with its rulemaking pursuant to Section 205 of the Credit CARD Act of 2009. The NPRM stated that comments must be received on or before November 30, 2009. In response to a request to extend the comment period received on November 16, 2009, the Commission has determined to extend the comment period until December 7, 2009.

DATES: Comments addressing the Free Annual File Disclosures NPRM must be received on or before December 7, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the SUPPLEMENTARY INFORMATION section below. Comments in electronic form should be submitted by using the following weblink:

<http://public.commentworks.com/ftc/FreeCreditReportNPRM> (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following

address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex T), 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2252.

FOR FURTHER INFORMATION CONTACT: Katherine Armstrong, Attorney, Steven Toporoff, Attorney, or Tiffany George, Attorney, Division of Privacy and Identity Protection. Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2252.

SUPPLEMENTARY INFORMATION: On October 15, 2009, the Commission published an NPRM¹ pursuant to the authority granted to it in Section 205 of the Credit CARD Act of 2009 (“the Act”)² to prevent deceptive marketing of “free credit reports.” In the NPRM, the Commission solicited comment on amendments to the Free Annual File Disclosure Rule (“Free Reports Rule” or “Rule”) that would require prominent disclosures for “free credit report” offers that are not the federally mandated free annual file disclosures. Section 205 of the Act requires the Commission to issue a final rule within 9 months of the enactment of the Act, or by February 22, 2010. The NPRM set a deadline of November 30, 2009 for filing public comments.

In a letter dated November 13, 2009, the Illinois Office of the Attorney General, Consumer Protection Division, on behalf of interested states (“States”), requested that the Commission extend the comment deadline in the NPRM proceeding until December 14, 2009. In the request, the States explain that they may need additional time to compile data and file comprehensive comments responsive to the NPRM.

¹ FTC, *Free Annual File Disclosures Amendments to Rule to Prevent Deceptive Marketing of Credit Reports and to Ensure Access to Free Annual File Disclosures*, 74 FR 52915 (Oct. 15, 2009). The NPRM was announced in a press release on October 7, 2009, available at <http://www.ftc.gov/opa/2009/10/freecredit.shtm>.

² Pub. L. No. 111-24, 123 Stat. 1734 (May 22, 2009).

The Commission recognizes that its proposal raises significant issues and believes that extending the comment period will facilitate the creation of a more complete record. In light of the statutory deadline for the issuance of the final rule, however, the Commission believes that a seven-day extension of the comment period is reasonable. The additional time should enable the States and other commenters to finalize and submit comments in response to the NPRM. Accordingly, the Commission has determined to extend the comment period set forth in the NPRM to December 7, 2009.

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Free Annual File Disclosures, Rule No. R411005” to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at <http://www.ftc.gov/os/publiccomments.shtml>.

Because comments will be made public, they should not include any sensitive personal information, such as any individual’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . ,” as provided in Section 6(f) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which

confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).³

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink:

<http://public.commentworks.com/ftc/FreeCreditReportNPRM> (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink

<http://public.commentworks.com/ftc/FreeCreditReportNPRM>. If this document appears at <http://www.regulations.gov/search/Regs/home.html#home>, you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at <http://www.ftc.gov> to read the document and the news release describing it.

A comment filed in paper form should include the “Free Annual File Disclosures Rulemaking, Rule No. R411005” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex T), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The FTC is requesting that any comment filed in paper form be sent by courier or overnight

³ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget (“OMB”), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Website. More information, including routine uses permitted by the Privacy Act may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

By direction of the Commission.

Donald S. Clark
Secretary